

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Case No. CR-05-17-F
	)	
MARGARET ANN GORDON,	)	
	)	
Defendant.	)	

**ORDER**

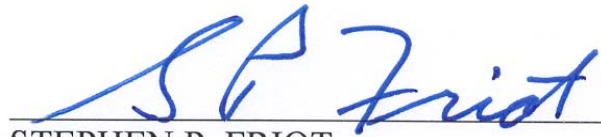
Before the court is defendant's Motion to Dismiss Counts as Multiplicitous (docket entry no. 18). The motion was filed on July 15, 2005. The government responded to the motion on July 20, 2005. The motion is at issue.

The motion challenges the indictment in this case as being multiplicitous. The indictment speaks for itself. Count 1 alleges that the defendant gave false testimony under oath in open court on January 3, 2005. Count 2 alleges that the defendant knowingly used a materially false document purporting to have been written by a physician in December, 2004 during the January, 2005 hearing. Count 3 alleges that the defendant, at the same hearing, used another materially false document, specifically a document which purported to be a CAT scan dated in December, 2004.

The court concludes, on the basis of its consideration of the relevant Tenth Circuit authority, including United States v. Meuli, 8 F.3d 1481 (10th Cir. 1993), that the indictment is not multiplicitous. As is concisely stated by the government in its response, each of the three counts in this case requires proof of some fact not required to establish the other counts. Accordingly, the motion is **DENIED**. The court will

note, however, that in the event that, by plea or otherwise, the defendant should be convicted on more than one of the counts set forth in the indictment in this case, any arguments the defendant may care to make to the effect that her culpability should be evaluated as though her activities consisted of a single essentially unitary course of conduct may be made at sentencing. However, the availability of that argument for sentencing purposes does not alter the court's conclusion that, as a legal matter, the indictment is not multiplicitous.

DATED August 1, 2005.

  
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STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE